

## **REMARKS**

### **The Amendment**

Claim 1 is amended to insert that  $R_2$  is O or absent, or  $R_1$  and  $R_2$  taken together form a substituted 5-membered fused imidazole ring. Support for the amendment that  $R_2$  is O can be found at page 12, line 1, which recites that the substituted derivatives of adenine include adenine 1-oxide; and page 14, lines 18-19, which describes adenine 1-oxide. Support for the amendment that  $R_2$  is absent can be found at page 12, lines 1-2, which recites that the substituted derivatives of adenine include 6-substituted adenine and 8-substituted aminoadenine; and page 14, lines 16-17, which describes adenine. Support for the amendment that  $R_1$  and  $R_2$  taken together form a substituted 5-membered fused imidazole ring can be found at page 12, lines 1-2, which recites that the substituted derivatives of adenine include 1,N6-(4- or 5-substituted etheno)adenine; and page 14, lines 20-21, which describes 1,N6- ethenoadenine.

No new matter is added in any of the above amendments. The Examiner is requested to enter the amendment and reconsider the application.

### **35 U.S.C. §112, 2<sup>nd</sup> Paragraph Rejection**

Claims 1-9 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Examiner states that variables  $R_1$  and  $R_2$  of Formula IIa have not been defined by the claims.  $R_1$  was already defined in Claim 1. As to  $R_2$ , Applicants have amended Claim 1 to insert the description of  $R_2$ .

Therefore, the 35 U.S.C. §112, 2<sup>nd</sup> Paragraph Rejection of Claims 1-9 should be withdrawn.

### **Double Patenting Rejection**

Claims 1-11 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claims 1-9 of U.S. Patent No. 5,900,407.

Applicants are submitting herewith a Terminal Disclaimer to overcome the rejection.

**Provisional Double Patenting Rejection**

Claims 1-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claims 1-2, 4, and 7-15 of copending Application No. 10/041,826. The rejection is traversed.

The present application is directed to a method of stimulating tear secretion and mucin production in eyes. The '826 application is directed to a method of enhancing drainage of the lacrimal system. A method of stimulating tear secretion is not an obvious variation of a method of enhancing drainage of the lacrimal system. The two methods involve different part of tissues, have opposite mechanisms and different functions, and achieve different end results.

**The lacrimal system has two functioning components: the secretory part, which produces tears, and the excretory part, which drains the tears into the nose.** A method of stimulating tear secretion increases the amount of tear fluid produced by the eye and protects the ocular surface. Increasing drainage alone would decrease the tear fluid accumulated in the eye.

A method of enhancing drainage of the lacrimal system involves the nasolacrimal duct, which is a tube for drainage of lacrimal fluid. Tears are produced by the lacrimal gland located in the upper outer portion of each eye. Tears drain down and cascade over the eye. Tears then drain into the tear ducts and down into the nasolacrimal duct located on the inner portion of each eye. Tears will accumulate and overflow onto the cheek if there is an excessive amount of tears produced, or if the nasolacrimal duct is blocked.

**A method of stimulating tear secretion and a method of enhancing drainage of the lacrimal system are opposite mechanisms and achieve opposite results.** A skilled person would not have a reasonable expectation of success in employing a method of enhancing drainage of the lacrimal system to stimulate tear secretion.

Therefore, the provisional double-patenting rejection should be withdrawn.

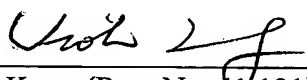
**CONCLUSION**

Applicants believe that the application is in good and proper condition for allowance. Early notification of allowance is earnestly solicited. If, in the opinion of the Examiner, a

telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 463-8181.

Respectfully submitted,

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